IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6272 of 2007()

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CRIME NO.786/07 OF NORTH PARAVUR POLICE STATION

PETITIONER/ACCUSED

ROBIN.V.B., S/O.MATHAI,
AGED 22 YEARS, VADEPPARAMBIL, THOOYITHARA,
NORTH PARAVUR, ERNAKULAM.

BY ADV. SRI.LIJU. M.P
SRI.G.PADMARAJ.

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY CIRCLE INSPECTOR OF POLICE,
NORTH PARAVUR POLICE STATION, ERNAKULAM.
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6272 OF 2007

Dated this the 17th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered for the offences punishable, inter alia, under Secs.452 and 324 read with Sec.149 of the IPC. The crux of the allegations in the F.I.R. is that the petitioner and others - not named, were members of an unlawful assembly of persons, who, on account of prior animosity – an earlier incident which took place in front of the shop of the de facto complainant, allegedly came back armed with dangerous weapons and unleashed an attack on the victim. No serious injury has resulted. The crime has been registered. Only the petitioner is named in the F.I.R. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. There is absolutely no reason for the petitioner to so attack the de facto complainant. In these circumstances, anticipatory bail may be granted to the petitioner, it is submitted.

3. The application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the petitioner has been named in the F.I.R. All other accused had not been named. Arrest and interrogation of the petitioner is essential to ascertain the identity of the co-accused. The version that the petitioner is not involved at all cannot, on the face of it, be accepted. I note that no specific plea is advanced as to why and how the de facto complainant is motivated to falsely implicate the petitioner.

4. I shall not embark on a detailed discussion on merits on the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I am unable to find any features in this case which would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I am satisfied, is a fit case where the petitioner must co-operate with the Investigator. He must surrender before the Investigating Officer or the court and then seek regular bail in

the normal and ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge